

To: [REDACTED]

Subject: RE: Intro/Comments Recount Regulations Chapter 8

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From: V.E. Lane

Sent: Friday, March 13, 2009 4:30 PM

To: Goldberg, Evan; Goldberg, Evan; Voting Systems

Subject: Intro/Comments Recount Regulations Chapter 8

To the attention of Mr. Evan Goldberg

To: Secretary of State Debra Bowen

From: Valerie Lane , Chair SAVElections Monterey County

Re: Regulations concern Chapter 8. Recounts

March 13, 2009

Dear Secretary of State Debra Bowen:

I appreciate the opportunity to provide public comment related to the Regulation for Recount Procedures. As you are aware I have been observing elections since November 2006 and communicating with your office when addressing concerns a challenging nature.

I am presently serving as a member of the Monterey County Election Observer Panel (EOP). As a representative of SAVElections Monterey County I also assist several community groups to understand our complex election procedures. Answers to the questions I raise will benefit many citizens who have concerns about the integrity of our election process.

While reviewing the text of the proposed Regulations for Recount I am considering how current policy and procedures in Monterey County relate to and impact the recount Regulations. Where my comments do not respond directly to the text I hope you will understand my distress at recognizing that these regulations need additional critical support.

The Informative Digest/Policy Statement Overview raises questions about current county election policy which I have included in my comments. I hope my comments will raise your awareness about other county procedural issues which would benefit from your attention.

To facilitate clarity I have presented my comments in bold following the proposed text.

Thank you for your consideration.

Respectfully,

Valerie Lane Chair, SAVElections Monterey County

Proposed regulation 20813 would require the elections official to produce relevant material for examination by the recount requestor in response to a written request prior to the completion of recounting; define "relevant material" broadly to include ballot envelopes, electronic records of votes, voting system logs, results of logic and accuracy testing, event logs from polling places, partial and final vote tally results, and video recordings and logs related to election security. Proposed regulation 20813 elaborates upon and makes specific the requirement in section 15630 of the Elections Code that the voter requesting a recount shall, upon request, be permitted to examine as part of the recount "[a]ll ballots, whether voted or not, and any other relevant material" This regulation is necessary because different elections officials have interpreted the term "relevant material" differently. The definition of "relevant material" incorporates the materials held by the Superior Court to fall within the scope of that term as used in Elections Code section 15360 in *COUNTY OF ALAMEDA. et al. v. AMERICANS FOR SAFE ACCESS et al.*, Alameda County Superior Court Case No. RG04-192053, *appeal pending*, Court of Appeal, 1st Civ. No. A121390.

§ 20813. Material To Be Examined; Relevant Material.

(a) Requests to examine relevant material shall be made by the requestor in writing and shall be received by the elections official before the recounting of ballots is complete.

(b) For purposes of this section, "relevant material" includes but is not limited to vote by

mail and provisional ballot envelopes, voting system redundant vote data, election data media devices, audit logs, system logs, pre- and post-election logic and accuracy testing plans and results, polling place event logs, precinct tally results, central count tally results, consolidated results, surveillance video recordings and chain of custody logs, including logs of security seals and access to election-related storage areas. The elections official shall produce any relevant material requested.

(c) The elections official may establish reasonable guidelines for the production and examination of relevant material.

20813/Comment

Policy statement includes "unused ballots" please insert into the Text

The text states that "relevant materials" has been interpreted differently from county to county. It would be helpful to have clarity here in the form of a comprehensive list of all "relevant materials" so that we have a statewide standard. While reference is made to the Alameda case it also notes "appeal pending" which creates a sense of ambiguity. The text states "For the purpose of this section, "relevant material" includes but is not limited to..." It is important not only to spell out what material is included but what are reasonable production costs and what is considered timely delivery. It would aid in establishing a uniform and equitable statewide election system.

The text states "Relevant Material" includes "audit logs", and "system logs". Anyone requesting a recount would want to also know in advance of the election what are appropriate costs for requesting all electronic files including the data base. Please specifically include a clear outline of reasonable guidelines for the costs for production and a reasonable time frame for the production and for examination of all records including all electronic data records. It should also be made clear to candidates and all interested parties which electronic records are subject to being redacted by the vendor when e-files are being produced for delivery.

It has been a costly, time consuming and overly cumbersome challenge to obtain certain electronic records in Monterey County. "Relevant electronic record materials" are Public Records and should be guaranteed by the Secretary of State to be made available for public access for review before a costly recount is decided upon and should be made available for access immediately upon certification of the election. I would ask that this request be considered as an additional "Re-Approval" use condition for all Voting systems which are being operated under the present "use conditions" imposed following the Top-To-Bottom-Review.

Elections conducted on electronic voting systems require a forensic audit of the entire system voting system to provide a comprehensive analysis of an election. The Humboldt County Nov. 2008 election required a two month window to analyze the voting system failure and it was conducted at a great expense to the taxpayers.

(Common IT slang is "garbage in garbage out" Recounts can be corrupted when proper security

procedures and chain of custody measures are not in place.) The Riverside County November 2008 Independent audit reported a lack of compliance with 8 of 40 Top-To-Bottom-Review "re-approval' use" conditions". A Recount is fully dependent on all security measures and chain of custody procedures being properly conducted.

My observation in Monterey County shows that to request relevant material "system logs", more specifically the Passcode entry log system for the "secure room" housing the central tabulation equipment can be very disappointing. As you will recall on February 29, 2008 I was advised by your office of Voting System Technology Assessment in response to my request for an investigation of a 3 month failure of the passcode entry log which is supposed to record the date time and who had entered the "secure tabulation room:

At this time the Secretary of State will not be requesting the Attorney General to initiate an investigation regarding the missing log entries on Monterey County's security passcode log. This decision is based on the fact that there are no statutes, regulations or certification conditions requiring the completion of this log. In the absence of such requirements or any specific allegations of wrongdoing or fraud related to the missing log entries, there is insufficient basis to warrant an investigation.

If you have any further questions, please do not hesitate to contact the Office of Voting Systems Technology Assessment at (916) 653-7244.

-Office of Voting Systems Technology Assessment

The fact that the passcode entry log stopped recording when entry was denied to an individual 2 days before an election was certified was insignificant in light of the fact that there are no regulations requiring a log. I would request the Office of Voting Systems technology Assessment consider that checking the seals on a DRE 3 times during an election is of little comfort if you permit undocumented access to the Sequoia 400-C Central tabulation equipment . Please consider making it another "use condition" to maintain that record /log and require a complete log of all those who enter, who they represent plus the date , the time and for what purpose they have access and when they leave . In addition, a passcode entry system failure should require immediate notice to the Secretary of State and to the public

Other relevant materials to request to help validate a recount are "video surveillance" recording tapes. In order to evaluate whether or not required mitigating security measures are being employed in the central tabulation secure room and where ballots are sorted, handled or stored would be expected that if video surveillance is in place and being used that it would serve the public interest best to save and secure all video records during an election from beginning to end. In Monterey County a Public Records Request (PRR) for copy of a video surveillance tape recording was requested on June 6, 2008 for a copy of a video tape recorded on May 27, 2008 of citizen with CAE code 15004 credentials who was observing a Sequoia Voting System technician repairing a read head on the 400-C Optical scan system. The observer had been removed from his observation post for trespassing. A response to the PRR from the ROV stated that the requested video surveillance record had been routinely taped over. Therefore it

was not available. I would request that since the Secretary of State lists video surveillance tapes as "relevant material" that some regulation or certification conditions requires that video records be copied, saved and secured for the appropriate time frame (the entire election from beginning to end) so that citizens can depend on this critical mitigating security measure to be in place and provide the evidence for which it was provided, If there is no video surveillance equipment in place I would ask that appropriate substitute records be required to be kept and made available for the public good. In addition Citizens have been prohibited from using video record events and procedures at election headquarters. With the understood exception of voters in the act of voting I ask that the Secretary recognize that without the authority to video tape election procedures observers cannot not provide legal evidence of what they witness as election observer.

Would the Secretary please consider proposing legislation to support public video access ? On word alone appears to have no legal weight.

Relevant materials also includes in recount regulations access to review "security seals". I commend the Office of Voting System Technology Assessment for their attention to the necessity for numbered security seals to be used to provide tamper evidence on strategic security vulnerable access points for the DRE machines. In Monterey County the paper ballots are placed in clear plastic bags which are heat sealed on each end after being tabulated . One of the heat sealed ends is folded over several times and a generic white paper sticker is attached to the body of the bag and over the folded end. The white paper sticker is printed with black ink and contains the date at the top and two lines for signatures at the bottom. On March 9, 2008 I observed that two sheets of sealing labels sat on the table next to the heat sealing unit unattended . One of the sheets has been pre signed by one of the witnesses on at least 4 of the seals. There were no identifying security numbers on the seals. so there was no reason to have a log. I would add that during the audit I attended on March 9, 2009 the Supervisor also presented paper ballots to the tally team which were simply encased in zip lock plastic bags which had a paper identifying sticker placed on the clear plastic bag below the zipper seal line. The generic white paper seal again had only the date and the two unreadable signatures. No log. Please provide regulations to correct this critical security deficiency. It would be extremely helpful for if the Secretary of State would address this apparent lack of standards and regulations for the chain of Custody of paper ballots.

Proposed regulation 20815 would specify the method by which the elections official estimates, and the requestor deposits in advance, each day's costs to conduct the recount; require provision of deposit receipts; require refund of unexpended deposit amounts to the requestor; and authorize the elections official to terminate the recount for failure to make timely deposits. This portion of Regulation 20815 clarifies and makes specific the requirements in section 15624 of the Elections Code and is included in the proposed regulations to provide a single, clear and comprehensive set of rules and instructions for recounts. Proposed regulation 20815 would clarify the provisions of section 15630 of the Elections Code by specifying that the elections official must estimate, and the requestor

must pay in advance, the costs necessary to produce relevant material.

§ 20815. Cost of Recount.

(a) The elections official shall estimate the costs necessary to produce relevant material and the requestor shall pay an advance deposit of the estimated amount prior to the materials being produced.

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(e) All actual costs of the recount resulting from the requestor's particular recount request shall be directly recoverable from the requestor and may include, but are not limited to, supervision, security guards, members of the elections official's staff and administrative costs

(f) The elections official shall issue a receipt for payment of the deposits and shall maintain a daily log of estimated costs, deposits, actual expenses and amount of refund due, if any.

I concur with Judy Alter and believe this regulation is unfair to the citizens. Election code 15624 has established what has historically been considered adequate compensation.

Proposed regulation 20816 would specify requirements for the location chosen by the elections official to conduct the recount, to ensure that representatives of interested parties, bona fide associations of citizens and media organizations may observe the recount. Proposed regulation 20816 would also authorize the elections official to limit to no more than 10 the number of observers representing bona fide associations of citizens and media organizations, selected in a manner to give each entity an equal opportunity to participate. These requirements are necessary to ensure that the elections official conducts the recount in a facility with sufficient space to accommodate all those entitled to observe "any or all phases of the election" under Elections Code section 15004. The part of regulation 20816 authorizing the elections official to limit the number of observers from citizen organizations and media organizations tracks the language of

Elections Code section 15004. This part of Regulation 20816 is necessary to ensure that the proposed regulations provide a single, clear and comprehensive set of rules and instructions for recounts.

§ 20816. Location of Recount.

(a) The recount shall take place in a location to be determined by the elections official.

The elections official shall choose a location that is large enough to accommodate the presence of the following:

(1) Not more than two representatives of each interested party and each qualified political party to check and review the preparation, testing and operation of the tabulating devices, and to attend any or all phases of the recount; and

Please be specific about (1) what is deemed an interested party?

Proposed regulation 20817 would require each elections official, within six months of the effective date of the proposed regulations, to establish written security measures for recounts, including a requirement for a minimum of two recount board members to perform critical security processes; chain of custody controls; signature verification of electronic voting paper trail records, voted, spoiled and unused ballots and all "relevant material"; serialization of tamper-evident seals applied to voting system components; and permitting, upon request, authorized recount observers to inspect the integrity of externally visible seals used to secure recount materials. Regulation 20817 is necessary to ensure that comprehensive security practices are established that will ensure the integrity of ballots and other election materials during the recount process. The regulation permits each local elections official to develop written security measures tailored to the local jurisdiction's facilities, resources and existing procedures. The regulation covers specific security practices that the Secretary has determined to be necessary for comprehensive security through review of best practices in the field and the

results of the Top-To-Bottom Review of voting systems conducted in 2007.

Thank you for requiring written security measures for recount procedures, please consider adding serial numbers and legible signatures on paper ballot seals as well as a log for recording chain of custody during the election.

§ 20817. Security.

Proposed regulation 20819 would require the elections official to establish and post the daily schedule for the recount, and prohibit a recount board from stopping for a break or lunch while recounting a precinct. Regulation 20819 clarifies and makes specific the requirement in section 15628 of the Elections Code for posting the schedule for the recount. This regulation is necessary to make the posted schedule useful to the interested parties and public by specifying the details, such as hours of operation, lunch and break times, and the specific locations for posting.

§ 20819. Scheduling.

The elections official shall set the daily schedule for the recount, including hours of operation, breaks and lunch times, in accordance with the requirements of Elections Code section 15626. A special recount board shall not stop for a break or lunch while recounting a precinct. The schedule shall be posted in a conspicuous place at the office of the elections official and at the location where the recount takes place, if different.

Election observers have been required to leave the election headquarters at 5pm, while staff remains. Please provide that regulations allow observers for as long as workers are present in the building attending to the recount procedures.

Proposed regulation 20820 would authorize the elections official to require interested parties, such as the requestor, candidates for the office or proponents or opponents of a ballot measure subject to recount, to appoint a representative as a spokesperson through whom questions are channeled, and require observers to log in and wear identification

badges. Proposed regulation 20820 would also prohibit requestors, interested parties, representatives and observers from interfering with the recount, assisting in recount procedures, touching voting system components or ballots and other recount materials, or talking to recount workers while they are conducting recount activities. The regulation would authorize the elections official to deny entry to any person who fails to comply with these requirements. Regulation 20820 is necessary to clarify and make specific the requirement in Elections Code section 15625 that a recount shall be conducted under the supervision of the elections official. The regulation specifies that the elections official may maintain effective control over the proceedings by limiting the number of persons permitted to speak on behalf of interested parties and by requiring an attendance log and identifying badges and by excluding those who do not comply. Regulation also clarifies and makes specific the prohibition in Elections Code section on touching or handling of recount materials by unauthorized persons.

§ 20820. Spokespersons and Observers.

(a) Any person may observe the recount proceedings, subject to space limitations of the recount location selected by the elections official pursuant to section 20816.

(b) Upon request by the elections official, each interested party shall appoint one of his or her representatives to serve as a spokesperson authorized to make decisions with respect to the recount on behalf of the interested party, or the interested party may serve as his or

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her own spokesperson. When accompanied by an elections official, the spokesperson shall have access to all areas where ballots are tabulated.

(d) The elections official may require any requestor, interested party, representative, or observer of the recount proceedings to log in and receive an identification badge before

entering the recount location. If required, identification badges shall be worn at all times and returned to the elections official at the end of the day.

Badges should be required for all attendees. The badge should indicate their name and party affiliation. When observers are permitted to specific viewing areas at their request, they should be permitted to remain in the area to observe for as long as procedures are being performed.

Proposed regulation 20821 would require the elections official, within six months of the effective date of the recount regulations, to develop a written policy providing reasonable media access to the recount location, including use of cameras or audio or video recording devices in a manner that will not interfere with the recount. This regulation clarifies and makes specific the requirement in section 15629 of the Elections Code that recounts be conducted in public. The regulation permits each local elections official to develop written media access rules tailored to the local jurisdiction's facilities, resources and procedures. Regulation 15629 is necessary to make it possible for the general public to obtain independent information about the recount and is based on best practices of elections officials in California as well as in states such as **Minnesota that encourage highly transparent and well-publicized recount proceedings.**

§ 20821. Media, Photography and Recording Devices.

(a) The elections official shall, within six (6) months of the effective date of these regulations, develop a written policy providing reasonable access to the recount location by the media, and the use of cameras or audio or video recording devices in the recount location in a manner that will not interfere with the recount.

The argument for media access with cameras applies to citizen use of cameras and video recording for all phases of the election . The election audit and other canvass procedures are just as important as the recount. The media is not interested in recording important procedures or collecting data. The news coverage is generally handled in less than 10 minutes when they are shooting video. Please consider that video documentation by citizens is one effective way to validate that procedures were done correctly

Proposed regulation 20822 would require the elections official to announce publicly at the end of each day the results of the tally of precincts tallied that day and the cumulative recount tally. Proposed regulation 20822 would also require the elections official, in elections in which the results of the completed recount change the outcome of an election, to post the recount results publicly and refund all monies deposited for the recount by any requestor in whose favor the recount changed the outcome of the election. In local contests, the proposed regulation would require the elections official to recertify the results of the recounted contest and send a copy of the recertification to the public official or governing body that declares the results of the election subject to recount. In a contest for statewide office, Assembly, State Senate, Presidential convention delegate or elector, Congress, State Board of Equalization, Supreme Court or Court of Appeal, the proposed regulation would require the elections official to transmit one copy of the recount results to the Secretary of State. Regulation 20822 tracks the requirements of sections 15624 and 15632 of the Elections Code and is included in the proposed regulations to provide a single, clear and comprehensive set of rules and instructions for recounts. Regulation 20822 also clarifies and makes specific the requirement to post recount results by requiring daily announcement of single-day and cumulative results. This requirement is necessary to facilitate meaningful observation pursuant to regulation 20816 and meaningful media coverage pursuant to regulation 20821.

§ 20822. Results of Recount.

(a) At the end of each day, the elections official shall announce publicly the results of the tally of each precinct recounted that day and the cumulative recount tally.

(b) If after a recount has been completed as specified in Elections Code section 15632 the outcome of the election changes, the elections official shall do all of the following:

(1) Post the results of the recount in a highly visible public location in the

elections official's office.

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(4) Refund all monies deposited for the recount by any requestor in whose favor the recount changed the outcome of the election.

Please consider (a) in addition to announcing publicly the results of the tally....posting the tally on the website and providing written copy for each announcement as a record to archive for those who cannot attend to observe and for those who do not have access to the internet.

Proposed regulation 20823 would provide the procedure by which a challenged ballot is handled, and a final determination made and recorded by the elections official as to whether the challenged ballot will or will not be added to the count, and would require the elections official to make that determination on the same day the ballot was challenged. Regulation 20823 clarifies and makes specific the requirements of section 15631 of the Elections Code, permitting ballots to be challenged during a recount. It requires resolution of challenged ballots at the end of each day in an area separate from where the recount is being conducted. These requirements are necessary to avoid confusion and mixing of ballots.

Proposed regulation 20830 would establish the procedures for recounts

Article 2. Recount of Votes Cast On Paper Ballots and Talled By a Scanning Device.

§ 20830. Recounts Using the Vote Tabulating Device Used In the Election.

(a) Prior to conducting a recount of ballots using a vote tabulating device, a logic and accuracy test shall be conducted on each vote tabulating device to be used in the recount, applying the same test method used prior to the election subject to the recount pursuant to Elections Code section 15000. The test shall be conducted publicly, subject to a limit on the number of public observers due to space limitations consistent with section 20816.

The results of the test, as well as the test deck used, shall be made available to the requestor, spokespersons and observers for their inspection before the commencement of the recount.

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(5) Ballots that cannot be read by the designated vote tabulating device shall be corrected or duplicated in accordance with Elections Code sections 15208, 15210 and 15211.

Please explain why ballots which have previously been counted should be duplicated if they cannot be read> This seems problematic. Duplication of ballots because the machine cannot read is not correcting a human error but it is correcting a machine read error in some cases and this should be documented and reported to the Secretary of State. Duplication of ballots is a questionable procedure. When ballots are duplicated during an election there is no assurance that they are being analyzed and marked by poll workers who have opposing interests. The all too common practice of duplicating up to 25% of the ballots because they can not be accurately read by the optical scan machine is a practice and procedure which needs to be reviewed by the Secretary. This practice creates a window for fraud and the Secretary of State should consider having a random selection of duplicated ballots in each county reviewed by her department staff before elections are certified.

(1) Recount vote results of ballots cast in a polling place for each precinct subject to recount shall be uploaded to the voting system's central tabulation and reporting application; and

Uploading ballots from DRE memory cartridges is a known security vulnerability Since all DRE VVPATS must be 100% manually tallied why is it necessary to upload them again. Please consider eliminating this memory cartridge upload,

(2) The elections official shall report separately the recount vote results for each precinct subject to recount. Such reporting will include the number of ballots undervoted and overvoted in the challenged contest

(d) At the conclusion of tabulation of all precincts designated for the recount, a logic and accuracy test shall be conducted on each tabulation device used in the recount, applying the same test method used prior to the election subject to the recount pursuant to

Elections Code section 15000. This test shall be conducted publicly within the view of the requestor, spokespersons and observers. The elections official shall make the results of the logic and accuracy test, as well as the test deck used for the test, available for inspection by the requestor, spokespersons and observers at the conclusion of the recount.

The test deck should be presented for observation before it is used in the L&A to support observer confidence in the procedure. The test deck should not be a series of perfectly marked ballots but should represent the wide range of voter marks which occur when marked by the voters.

Proposed regulation 20840 would establish requirements and procedures for recounts on direct recording electronic voting systems using electronic vote results, including a requirement for a pre-count public logic and accuracy test of each direct recording electronic voting system used in the recount. The pre-recount test is necessary to ensure that the equipment used in the recount meets the same logic and accuracy requirements as the equipment used originally and that there has been no degradation of accuracy during the election and canvass periods.

Article 3. Recount Of Votes Cast On Direct Recording Electronic Voting Systems.

§ 20840. Recounts on Direct Recording Electronic Voting Systems Using Electronic Vote Results.

(a) Prior to conducting the actual recount of ballots, a logic and accuracy test shall be conducted, using the same method used prior to the election subject to the recount pursuant to Elections Code section 15000, on each direct recording electronic voting system being used in the recount. The test shall be conducted publicly within the view of the requestor, spokespersons and observers, subject to a limit on the number of public observers due to space limitations consistent with section 20816. The results of that test, as well as the test deck used, shall be made available for their inspection by the requestor, spokespersons and observers before the commencement of the recount.

(b) Electronic recount tabulation on a direct recording electronic voting system shall be

based on a re-import and re-tabulation of the vote results from the electronic media originally used to capture and transfer the vote results from the direct recording electronic voting system devices into the election management system for that voting system. Once all vote results have been imported into the election management system from each direct recording electronic voting system device used to cast and record votes in the precincts designated for recount, the elections official shall generate a report for each such precinct detailing the aggregated direct recording electronic voting system vote results for the recounted contest.

(b) I addressed this earlier and repeat my request to Not upload the DRE memory cartridges since the VVPATs require a 100% manual tally . Since I am not a computer scientist my logic may be faulty...I would appreciate an explanation as to why this is the preferred procedure.

Proposed regulation 20841 would establish requirements and procedures for recounts of votes cast on a direct recording electronic voting system based on an automated scan and tabulation of the voted ballots directly from the voter verified paper audit trail record, a method that could be employed only if the Secretary of State has tested and approved the automated scan method as part of the approval of the voting system. No automated scan system has been presented for approval. The proposed regulation would also require a pre-count public logic and accuracy test of each direct recording electronic voting system used in a recount employing this method. The pre-recount test is necessary to ensure that the equipment used in the recount meets the same logic and accuracy requirements as the equipment used originally and that there has been no degradation of accuracy during the election and canvass periods.

§ 20841. Automated Recounts on Direct Recording Electronic Voting Systems

Using Voter Verified Paper Audit Trail Records.

(a) The voter requesting the recount of votes cast on a direct recording electronic voting

system may request that it be conducted based on an automated scan and tabulation of the voted ballots directly from the voter verified paper audit trail record. An automated scan shall not be used unless the Secretary of State has tested and approved the automated scan method as part of the certification of the voting system.

(b) Prior to conducting the recount of voter verified paper audit trail records from the direct recording electronic voting system, a logic and accuracy test shall be conducted, using the same method used prior to the election subject to the recount pursuant to Elections Code section 15000, on each direct recording electronic voting system device to be used in the recount. The test shall be conducted publicly within the view of the requestor, spokespersons and observers. The elections official shall make the results of that test, as well as the test deck used, available for their inspection at the conclusion of the recount.

(c) Once all vote results have been scanned and captured from each direct recording electronic voting system device used to cast and record votes in the precincts designated for recount, the elections official shall generate a report for each such precinct detailing

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the aggregated direct recording electronic voting system vote results for the recounted contest.

The Secretary has limited the use of DREs for numerous reasons reported in the Top-To-Bottom Review. Those security vulnerabilities will not be fixed by a Digital scan of the VVPAT whether Digital scan is in the pipeline or not. I would ask that the Secretary remove this projected plan for a digital scan of the VVPATs. It appears to be counter productive and will only serve to provide a placebo to cover up the DRE systemic security problems. If I am wrong please explain how this will be a benefit.

Proposed regulation 20842 would establish requirements and procedures for recounts of votes cast on a direct recording electronic voting system by manually counting the voter verified paper audit trail records. The requirements and procedures are similar to those in proposed regulation 20832 for manual recounting of votes cast on paper. Also included

are special requirements and procedures uniquely applicable to voter verified paper audit trails: verifying the zero-results tapes printed before opening the polls, and noting but not counting paper audit trail records for ballots that were cancelled or cancelled and revoted. The Secretary of State determined that these procedures were necessary through review of best practices in the field and consultation with local elections officials.

§ 20842. Manual Recounts of Ballots Cast on Direct Recording Electronic Voting Systems Using Voter Verified Paper Audit Trail Records.

The manual recount, using voter verified paper audit trail records, shall include the following:

(a) The voter verified paper audit trail record shall be re-spooled if necessary to permit the recount to begin at the start of the record.

(b) One member of the special recount board shall be designated to review the voter verified paper audit trail record and call out the vote results for the recounted contest from that record. This member shall begin by reviewing and verifying the zero-results tape printed prior to the opening of the polls and before any votes were captured. The zero-results tape shall also be reviewed and verified by the supervisor of the special recount board and by the requestor and spokespersons.

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(e) The individual voter verified paper audit trail records shall be displayed to permit the requestor, spokespersons and observers to view the contest subject to recount, either directly or indirectly, as the voter verified paper audit trail record is reviewed and called.

The observers should be able to see and record the names of the poll workers that originally signed the VVPAT roll on election day. Election Officials should allow observers to record the names /signatures on the paper roll to see that they match the signatures on the reconciliation form from the polling place. Observers should be able to observe the VVPATs at a normal readable distance or they cannot properly witness the read and count. In all instances where votes are being cast and read aloud the reader should speak loudly and clearly so that observers can hear the count. When officials are performing procedures observers should be permitted to both hear and see the proceedings to properly

witness. When activities are performed in glass enclosed rooms or in inner offices out of sight and hearing range of the activity it create an unacceptable barrier and an impediment to observers.

When a location is provided for the election and the recount in every instance the officials should assure before the election and before the recount that there will be no instances where observers are denied meaningful access to observed for any reason. To announce that observers cannot have meaningful access to observe because it will violate OSHA or other standards is not acceptable and creates an impediment to observers and violates their observer rights.

(j) Once all the voter verified paper audit trail records containing ballots for that precinct have been reviewed and tallied, the recount of that precinct shall be deemed complete and the results reported to the elections official.

I would assume that you intend for the elections official to immediately verbally report the tally result to the public and post the tally result on the county website. In addition a record of these announcements should be written and archived for public reference. Please insert wording to that effect.

Again I thank you and Mr. Evan Goldberg and your staff for your consideration of my concerns , comments and requests.

Valerie Lane

Chair, SAVElections Monterey County